

HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Plaintiff,

v.

ZILLOW GROUP, INC.; and
ZILLOW, INC.,

Defendants.

Case No. 2:20-cv-00851-TSZ

**JOINT CLAIM CONSTRUCTION AND
PREHEARING STATEMENT**

JOINT CLAIM CONSTRUCTION AND PREHEARING
STATEMENT
(CASE NO. 2:20-CV-00851-TSZ)

LAW OFFICES
HARRIGAN LEYH FARMER & THOMSEN LLP
999 THIRD AVENUE, SUITE 4400
SEATTLE, WASHINGTON 98104
TEL (206) 623-1700 FAX (206) 623-8717

Plaintiff International Business Machines Corporation (“IBM”) and Defendants Zillow Group, Inc. and Zillow, Inc. (“Zillow”) respectfully submit this Joint Claim Construction And Prehearing Statement pursuant to Local Patent Rule 132 and the Court’s April 1, 2022 Minute Order Setting Trial Date And Related Deadlines (D.I. 189). The parties have met and conferred for the purposes of narrowing the issues and finalizing preparation of this statement pursuant to Local Patent Rules 131(c) and 132.

a. Agreed Terms

The parties agree to following construction for the term “user authentication” as it appears in claim 1 of U.S. Patent No. 7,631,346 (“’346 Patent”): “the process of validating a set of credentials that are provided by a user or on behalf of a user.” The parties further agree that the preamble of the ’346 Patent is limiting.

b. Disputed Terms

A Joint Claim Chart including each party’s proposed construction of each disputed claim term, phrase, or clause of the ’346 Patent and of U.S. Patent No. 9,245,183 (“’183 Patent”), together with an identification of all references from the specification or prosecution history that support that construction, and an identification of any extrinsic evidence on which it intends to rely either to support its proposed construction of the claim or to oppose any other party’s proposed construction of the claim is attached as Exhibit A.

c. Ten Most Important Terms

The parties have identified the following terms as the most important terms for construction:

1. “distributed data processing system” (’346 Patent, claim 1)
2. “federated computing environment” (’346 Patent, claim 1)
3. “protected resource(s)” (’346 Patent, claim 1)
4. “single-sign-on operation” (’346 Patent, claims 1-4)
5. “triggering a single sign-on operation on behalf of the user”

(’346 Patent, claim 1)

6. “a/said/the computer processor” (’183 Patent, claims 1, 5, 7, 8, 10, 11, 15, 17, 18, 20)

7. “condition score values” (’183 Patent, claims 1, 11, 20)

8. “image data” (’183 Patent, claims 1, 2, 3, 4, 5, 11, 12, 13, 14, 15, and 20)

9. “real time condition values” (’183 Patent, claims 1, 11, and 20)

10. “retrieving in real time . . . image data” (’183 Patent, claims 1, 11, and 20).

It may be appropriate to combine term numbers nine and ten above for the purpose of briefing and/or argument.

d. Anticipated Time Necessary For Hearing

The parties request three hours for the Claim Construction Hearing.

e. Proposed Order Of Presentation

The parties propose to alternate which party presents first on a per-term basis. IBM would present first for the first term argued, then the third term argued, and so on, while Zillow would present first for the second term argued, then the fourth term argued, and so on. The parties further propose to argue the terms in the order they appear above.

f. Live Testimony

The parties do not believe the Court need consider live testimony at the Claim Construction Hearing. To the extent testimony is necessary, the parties anticipate that expert disclosures in the form of declarations and/or deposition testimony will suffice to present to the Court the parties’ expert witnesses’ testimony.

The declaration of Zillow’s expert Dr. Vijay K. Madisetti is attached as Exhibit B. IBM will provide a rebuttal disclosure by the July 18, 2022 deadline. (*See* D.I. 189 at 1.)

g. Technical Tutorial

The parties propose that counsel for the parties present a brief technology tutorial at the beginning of the claim construction hearing.

h. Pre-Hearing Conference

The parties do not believe a pre-hearing conference, prior to the Claim Construction Hearing, is necessary.

i. Independent Expert

The parties do not believe this case requires the appointment of an independent expert.

Dated: June 15, 2022

SUSMAN GODFREY LLP

HARRIGAN LEYH FARMER & THOMSEN LLP

By: s/Ian B. Crosby

By: s/Arthur W. Harrigan, Jr.

By: s/Daniel Shih

By: s/Tyler L. Farmer

By: s/Edgar G. Sargent

By: s/Bryn R. Pallesen

By: s/Katherine Peaslee

Ian B. Crosby, WSBA #28461

Arthur W. Harrigan, Jr., WSBA #1751

Daniel Shih, WSBA #37999

Tyler L. Farmer, WSBA #39912

Edgar G. Sargent, WSBA #28283

Bryn R. Pallesen, WSBA #57714

Katherine Peaslee, WSBA #52881

999 Third Avenue, Suite 4400

1201 Third Avenue, Suite 3800

Seattle, WA 98104

Seattle, WA 98101

Tel: (206) 623-1700

Tel: (206) 516-3880

Fax: (206) 623-8717

Fax: (206) 516-3883

Email: arthurh@harriganleyh.com

Email: icrosby@susmangodfrey.com

Email: tylerf@harriganleyh.com

Email: dshih@susmangodfrey.com

Email: brynp@harriganleyh.com

Email: esargent@susmangodfrey.com

DESMARAIS LLP

Email: kpeaslee@susmangodfrey.com

John M. Desmarais (*pro hac vice*)

Karim Z. Oussayef (*pro hac vice*)

Brian D. Matty (*pro hac vice*)

John Dao (*pro hac vice*)

Jun Tong (*pro hac vice*)

William Vieth (*pro hac vice*)

230 Park Avenue, 26th Floor

New York, NY 10169

Tel: (212) 351-3400

Fax: (212) 351-3401

Email: jdesmarais@desmaraisllp.com

Email: koussayef@desmaraisllp.com

Email: bmatty@desmaraisllp.com

Email: jdao@desmaraisllp.com

Email: jtong@desmaraisllp.com

Email: wvieth@desmaraisllp.com

Attorneys for International Business Machines Corporation

Attorneys for Zillow Group Inc. and Zillow, Inc.